



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202-2733

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Tim Rens
Manufacturing Director, N.A.
Pergan Marshall, LLC
710-B Bussey Road
Marshall, TX 75670

Dear Mr. Rens:

As you know, on November 5, 1991, EPA Region 6 approved a no migration petition for your facility pursuant to 40 C.F.R. Part 148, allowing the land disposal through underground injection of certain restricted hazardous wastes [characteristic corrosive hazardous waste (D002) and methyl ethyl ketone toxicity (D035)] into Class I hazardous waste underground injection wells WDW-180 and WDW-243, as long as certain conditions were met. These conditions included a demonstration that formation pressures in the injection interval (the Rodessa Formation) could not rise above 3316 pounds per square inch absolute (psia). Region 6 has been working with Pergan Marshall, LLC (Pergan) and its predecessors over the past several years on the petition ~~renewal~~ reissuance application for WDW-243 (WDW-180 was ~~temporarily~~ abandoned in 2005).

The cessation of injection date for the no migration petition approved in 1991 occurred on December 31, 2010. EPA allowed Pergan to continue to inject, as long as Pergan remained in compliance with the approved no migration petition, and was actively pursuing a petition reissuance. However, EPA's analysis of Pergan's As of June 24, 2014, submittal of WDW-243's annual falloff test data determined that the pressure buildup in Pergan's injection interval exceeds the petition condition limit of 3316 psia. the pressure build up in the injection interval exceeded the pressure allowable under the petition. As a result, Pergan is in violation of a condition of the no migration petition.

On June 5, 2014, a According to a Texas Commission on Environmental Quality (TCEQ) inspection conducted June 5 – 11, 2014, report, Pergan's Underground Injection Control (UIC) permit expired May 18, 2014, and Pergan failed to submit a permit renewal application to TCEQ was disposing of hazardous waste prior to the permit expiration date. Therefore, hazardous waste into WDW-243. Pergan lost its RCRA permit by rule for WDW-243 under 30 T.A.C. § 335.47 [40 C.F.R. § 270.60(b)] on May 18, 2014. by failing to submit a TCEQ Class I UIC permit application to TCEQ prior to the permit expiration date of May 18, 2014. By Pergan's own admission on August 26, 2014, Pergan continued to dispose of hazardous waste until July 30, 2014. Therefore, Pergan disposed of hazardous waste without a permit, along with violating the RCRA Land Disposal Restrictions regulations. In addition, the presence of the hazardous waste disposed of in the injection zone under the conditions that currently exist may also present a substantial hazard to the environment.

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~~Pergan is in violation of the Safe Drinking Water Act (SDWA) Underground Injection Control (UIC) Program for unauthorized injection.~~ It is EPA's understanding that Pergan continues to dispose of non-hazardous waste into WDW-243 even though it does not have a permit to dispose of ~~non-hazardous~~ waste into WDW-243. Therefore, Pergan is injecting waste without a valid underground injection well permit, a violation of the Safe Drinking Water Act SDWA Underground Injection Control Program IC Program regulations. The continued injection of wastes into the injection interval will continue to cause migration of the hazardous wastes previously injected.

Finally, enclosed with this letter is an Information Request issued to Pergan under the authority of Section 3007 of the ~~Pursuant to the authority of Section 3007 of the~~ Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6927, and Section 1445 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300j-4. Please provide the information requested within thirty (30) days of your receipt of this letter to the person identified in Enclosure A. If you have any questions or needs to request an extension, please contact _____ at (214) 665-XXXX. ~~308 of the Federal Water Pollution Control Act (FWPCA), 33 U.S.C. § 1318, you are hereby requested to respond to the Information Request set forth in Attachment A. . Please identify the person(s), on behalf of Pergan, answering these questions and who was consulted to assist with the answering of these questions (including every individual's name, present address (or last known), present employer and position (or last known), and include a signed copy of the Statement of Certification (Enclosure B) with your response.~~

~~Please respond to this Information Request within thirty (30) calendar days of receipt of this letter. Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to the Information Request or to adequately justify such failure to respond can result in enforcement action by EPA pursuant to Section 3008 of RCRA. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under Section 3008(d) of RCRA. You may request a meeting with EPA regarding this Information Request if necessary, however, a meeting request should not delay your response nor will it relieve you of your obligation to timely comply with this Information Request.~~

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq. Your response to this Information Request should be sent to:

Compliance Assurance and Enforcement Division
U.S. Environmental Protection Agency, Region 6
1445 Ross Avenue
Dallas, TX 75202

~~Due to the serious legal ramifications if you fail to respond properly, EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above.~~

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Sincerely, ~~yours,~~

John Blevins
Director,
Compliance Assurance ~~and~~
Enforcement Division

Enclosures

~~USEPA, Region 6~~

cc: TCEQ official
Texas Railroad Commission official

~~cc: Mr. Richard A. Hyde, P.E., TCEQ Executive Director or~~
~~Mr. Brent Wade, Deputy Director, Office of Waste, TCEQ~~
~~Mr. Milton Rister, RRC Executive Director or~~
~~Mr. Gil Bujano, Oil and Gas Division Director, RRC~~

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